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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/698,685	10/30/2003	Michael Harville	200313422-1	3564

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EXAMINER
ALAM, UZMA

ART UNIT	PAPER NUMBER
2157	

DATE MAILED: 06/16/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	10/698,685	HARVILLE ET AL.
	Examiner	Art Unit	
	Uzma Alam	2157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>30 October 2003</u>.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>1 and 36-74</u> is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>1 and 36-74</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on <u>30 October 2003</u> is/are: a)☒ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>2/5/04; 3/03</u>.

4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application (PTO-152)

6) ☐ Other: _____.

DETAILED ACTION

This action is responsive to the application filed on October 30, 2003. Claims 1, 36-74

are pending. Claims 1, 36-74 represent a method for managing a streaming media service.

Claim Rejections - 35 USC § 112

1.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the
> subject matter which the applicant regards as his invention.

2.   Claims 1, 36-60 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite

for failing to particularly point out and distinctly claim the subject matter which applicant

regards as the invention.

3.   Claims 1 and 54 are rejected under 35 U.S.C. 112, second paragraph, as being incomplete

for omitting essential structural cooperative relationships of elements, such omission amounting

to a gap between the necessary structural connections. See MPEP § 2172.01. The omitted

structural cooperative relationships are: the relationship of the service location manager in line 6

of claims 1 and 54 with the rest of the system.

Claim Rejections - 35 USC § 102

4.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the

basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed
> in the United States before the invention by the applicant for patent or (2) a patent granted on an application for
> patent by another filed in the United States before the invention by the applicant for patent, except that an
> international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this

subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5.   Claims 1 and 36-74 rejected under 35 U.S.C. 102(e) as being anticipated by Kenner et al.

US Patent No. 6,665,706. Kenner teaches the invention as claimed including a system for

optimized retrieval of video data (see abstract).

As per claim 1, Kenner teaches a method for managing a streaming media service, said

method comprising:

receiving a request for a streaming media service from a client, said streaming media

service comprising a media service component (client (12) requests data from MSP (32); column

7, lines 1-15, lines 60-67; column 8, lines 1-5);

selecting a service location manager to which to provide said request from a plurality of

service location managers (using a MSP to select a service provider; column 8, lines 1-5);

selecting a service provider to which to assign said media service component from a

plurality of service providers of a network (selecting a content provider; column 12, lines 36-42);

informing said service provider of said assignment to perform said media service

component, causing said service provider to prepare to perform said streaming media service on

streaming media (sending stream to client after quality of service standards are met; column 13,

lines 1-10);

using information to determine whether to initiate a handoff of said streaming media

service from said service provider to another service provider; and if it is determined to initiate

said handoff, initiating said handoff (if one content provider does not provide the required

information at the required quality of service, getting information from a mirror site; column 13,

lines 11-60).

As per claim 36, Kenner teaches the method as recited in claim 1, wherein said information comprises information received from said service providers and information associated with location and priority of said service providers (column 13, lines 36-42).

As per claim 37, Kenner teaches the method as recited in claim 1, wherein said information comprises information received from any client device that is involved in said streaming media service (the user send relevant information through the MSP for the required service it is requesting; column 8, lines 43-49; column 9, lines 46-55).

As per claim 38, Kenner teaches the method as recited in claim 1, wherein said information comprises information associated with network conditions (column 11, lines 37-49).

As per claim 39, Kenner teaches the method as described in claim 1, wherein said selecting said service location manager comprises: maintaining a record comprising identifying information for a set of service location managers among said plurality of service location managers; and selecting said service location manager in a round robin manner from said record (having a database of content providers that provide the required data and their resources; column 13, lines 26-58).

As per claim 40, Kenner teaches the method as described in claim 1, wherein said selecting said service location manager comprises a comparison of available resources of a first

set of service providers supervised by a first service location manager and available resources of

a second set of service providers supervised by a second service location manager (column 11,

lines 37-49; column 13, lines 11-25).

As per claim 41, Kenner teaches the method as described in claim 1, wherein said

selecting said service location manager comprises a comparison of processing loads of at least

two service location managers among said plurality of service location managers (column 13,

lines 11-25).

As per claim 42, Kenner teaches the method as described in claim 1, wherein said

selecting said service location manager is based on an estimate of a network communication

condition between two entities connected by the network (column 11, lines 37-49).

As per claim 43, Kenner teaches the method as described in claim 1, further comprising:

notifying a second service location manager among said plurality of service location managers of

the assignment of said service provider to perform said media service component (column 13,

lines 11-25).

As per claim 44, Kenner teaches the method as described in claim 1, wherein said service

provider is supervised by more than one service location manager among said plurality of service

location managers (column 8, lines 1-5).

As per claim 45, Kenner teaches the method as described in claim 44, further comprising: maintaining a record comprising identifying information of a set of service location managers among said plurality of service location managers, each service location manager of said set of service location managers supervising said service provider; and notifying said set of service location managers according to said record of said assignment of said service provider to perform said media service component (column 13, lines 26-58).

As per claim 46, Kenner teaches the method as described in claim 1, further comprising: receiving resource availability information from said plurality of service providers, wherein said information is ascertained from ongoing resource measurements; and said selecting said service provider based on said resource availability information (column 8, lines 43-49).

As per claim 47, Kenner teaches the method as described in claim 46, wherein said resource availability information is pushed from said plurality of service providers (column 12, lines 43-60; column 16, lines 14-20).

As per claim 48, Kenner teaches the method as described in claim 46, wherein said receiving resource availability information occurs in response to polling of said service providers (column 12, lines 43-60).

As per claim 49 Kenner teaches the method as described in claim 1, wherein said selecting said service provider is based on static service provider information or static network

information (column 13, lines 26-58).

As per claim 50, Kenner teaches the method as described in claim 49, wherein said static

service provider information or static network information consists of at least one of the

following: information concerning computational and memory resources, connectivity and

expected bandwidth and latency between servers, client and content addresses, session dispatch

history, and network proximity (column 12, lines 43-60).

As per claim 51, Kenner teaches the method of claim 1, wherein said selecting comprises:

maintaining a record comprising assignments of service providers to perform media service

components; and said selecting said service provider based on said record (column 13, lines 26-

58).

As per claim 52, Kenner teaches the method of claim 1, wherein said selecting comprises:

maintaining a record comprising assignments of service providers to perform media

service components (column 13, lines 26-59);

receiving resource availability information from said plurality of service providers,

wherein said information is ascertained from ongoing resource measurements (column 12, lines

43-60); and

said selecting said service provider based on said resource availability information and

said record (column 13, lines 11-25).

As per claim 53, Kenner teaches the method as described in claim 1, wherein said

selecting said service provider is based on an estimate of resources associated with performing

said service (column 13, lines 26-58).

6.   Claims 54-60 disclose a computer readable medium comprising computer-executable

instructions stored thereon for implementing a method and are rejected under the same rationale

as claims 1, 36-53 which teach the method.

As per claim 61, Kenner teaches a system for providing streaming content to a client

device, said system comprising:

a plurality of service location managers, each service location manager capable of

managing a handoff of a service based on information received (column 12, lines 36-42; column

13, lines 1-60);

a plurality of service providers, each service provider capable of performing said service

on an item of streaming input content to produce said streaming content (column 7, lines 1-15,

lines 60-67; column 8, lines 1-5); and

a portal providing a first point of contact for said client device, said portal for receiving

from said client device a request for performance of said service on said item of streaming input

content, said portal for selecting a service location manager to which to provide said request

from said plurality of service location managers, said service location manager for receiving said

request from said portal and for selecting a service provider from said plurality of service

providers and informing said service provider of said assignment to perform said service on said

streaming input content to produce said streaming content, wherein said service location

manager uses information to determine whether to initiate a handoff of said service from said

service provider to another service provider (column 12, lines 36-42; column 13, lines 11-60).

As per claim 62, Kenner teaches the system of claim 61, wherein said information

includes information received from said service providers (column 13, lines 26-58).

As per claim 63, Kenner teaches the system of claim 61, wherein said information

includes information received from said client device (column 8, lines 43-49; column 9, lines 46-

55).

As per claim 64, Kenner teaches the system of claim 61, wherein said information

includes information associated with network conditions (column 11, lines 37-49).

As per claim 65, Kenner teaches the system of claim 61, wherein said portal maintains a

record comprising a prioritized listing of at least one service location manager among said

plurality of service location managers and selects said service location manager in order of

priority according to said prioritized listing (column 11, lines 37-49; column 13, lines 11-25).

As per claim 66, Kenner teaches the system of claim 61, wherein said portal selects said

service location manager by comparing available resources of a first set of service providers

supervised by said service location manager and available resources of a second set of service

providers supervised by a second service location manager (column 13, lines 11-25).

As per claim 67, Kenner teaches the system of claim 61, wherein said portal selects said service location manager based on an estimate of a network communication condition between two entities connected by the network (column 11, lines 37-49).

As per claim 68, Kenner teaches the system of claim 61, wherein said service provider or said service location manager notifies a second service location manager among said plurality of service location managers of said assignment of said service provider to perform said service (column 13, lines 11-25).

As per claim 69, Kenner teaches the system of claim 61, wherein said portal activates a second service location manager of said plurality of service location managers to perform the operation of said service location manager, provided said portal determines said service location manager to be non-responsive (column 14, lines 10-26).

As per claim 70, Kenner teaches the system of claim 61, wherein said service provider is supervised by more than one service location manager of said plurality of service location managers (column 8, lines 1-5).

As per claim 71, Kenner teaches the system of claim 61, wherein said service provider is supervised by a first service location manager, and wherein said first service location manager

transfers supervision of said service provider to a second service location manager (column 14, lines 10-26).

As per claim 72, Kenner teaches the system of claim 61, wherein said service location manager receives resource availability information from said plurality of service providers, and wherein said selecting said service provider is based on said resource availability information (column 13, lines 26-58).

As per claim 73, Kenner teaches the system of claim 61, wherein said service location manager maintains a record comprising assignments of service providers to perform services, and wherein said selecting said service provider is based on said record (column 13, lines 26-58).

As per claim 74, Kenner teaches the system of claim 61, wherein said service location manager selects said service provider based on static service provider information or static network information (column 13, lines 26-58).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Uzma Alam whose telephone number is (571) 272-3995. The examiner can normally be reached on Monday-Tuesday 5:30 AM - 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ario Etienne can be reached on (571) 272-4001. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would

like assistance from a USPTO Customer Service Representative or access to the automated

information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Ua
June 6, 2006

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